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OGC Has Reviewed

TAB A

AUTHORIZATION FOR PAYMENT OF TRANSPORTATION  
TO AND FROM OVERSEAS POSTS

1. In regard to the payment of transportation to and from an overseas post of duty, Section 7 of Public Law 600, 79th Congress, requires new appointees to agree in writing to remain in the Government for 12 months from the date of appointment, unless separated for reasons beyond their control and acceptable to the employing agency. Employees who do not fulfill this agreement are required to reimburse the Government for the cost of their transportation to the overseas post and are not entitled to return transportation at Government expense. Public Law 830, 81st Congress, extends this requirement to all other employees overseas as well.

2. In a memorandum addressed to the Personnel Director, dated 13 November 1953, the Office of General Counsel expressed an opinion on the meaning of the following statement in P. L. 830 as it applies to Agency employees who have previously served a tour abroad or in a departmental capacity: "...such expenses...shall not be allowed unless and until the persons selected for appointment shall agree in writing to remain in the Government service for twelve months following their appointment...." [Underscoring supplied.] The opinion states in part:

To apply this quoted language to one who has previously served abroad or departmentally in a Government position requires that the statutory words "following his appointment" be construed as synonymous with the words "following his transfer". We have been unable to discover any decision of the Comptroller General, either published or manuscript, that would lend assistance in this semantic difficulty. We have informally inquired on this point from representatives of the Office of General Counsel of the General Accounting Office. We are told that the Comptroller General would construe the statutory words "following his appointment" in the case of a new appointee as meaning "following his transfer" in the case of an old employee. Although conceding that this position arguably involves "judicial legislation", it is nonetheless maintained that to hold otherwise would frustrate Congressional intent. This latter attitude is probably indisputable.

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